Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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OFFICE OF SECRETARY

In the Matter of:	)	
	)	
Interconnection Between Local Exchange	)	CC Docket No. 95-185
Carriers and Commercial Mobile	)	
Radio Service Providers	)	

To: The Commission

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REPLY COMMENTS OF CELPAGE , INC.

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SUMMARY

Celpage has carefully reviewed most of the comments in this rulemaking proceeding, the Telecom Act, the Legislative History and Congressional Reports concerning that statute, as well as long-established legal precedents concerning FCC jurisdiction over wireline/wireless interconnect matters. That analysis inevitably leads to the conclusion that the Telecom Act does not preempt FCC jurisdiction over these interconnect matters; indeed, the FCC's statutory mandate to promote nationwide, competitive CMRS services mandates such regulations in the public interest.

The FCC should resist the considerable pressures being brought to bear on it by the LECs and local regulatory authorities to terminate this rulemaking proposal. There is absolutely no chance that the CMRS industry will change its point of view on these interconnect matters in this or any other rulemaking proceeding; and, these pressing issues of unjust interconnect practices will not go away anytime soon. Indeed, if the LECs prevail, these issues will meander their way through laborious, multi-state arbitration proceedings in over 50 public utility commissions, before the CMRS industry can even hope to receive fair and reasonable compensation from the LECs. The FCC has ample authority, under both the "old" and the "new" Communications Act, to immediately rectify this blatant imbalance in LEC/CMRS interconnect compensation; this agency should continue its efforts to remedy this injustice.

The LECs are simply playing the same tune that they have played for decades with regard to wireless interconnect practices: whenever the FCC proposes to level the playing field between wireless and wireline carriers, the wireline carriers decry that these are "local issues" subject to state, not FCC jurisdiction. It is apparent that the LECs' analysis of the jurisdictional implications of the Telecom Act, amounts to little more than another shell under which they

hope to hide their unjust and unreasonable interconnect practices. The FCC should put an end to this shell game, once and for all. The FCC has ample jurisdiction over these interconnect issues under several principles of law, none of which are undermined or superseded by the Telecom Act.

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REPLY COMMENTS OF CELPAGE, INC.

Celpage, Inc., through its undersigned counsel and pursuant to Section 1.415 (c) of the Commission's Rules, 47 C.F.R. § 1.415(c), respectfully submits these Reply Comments in response to the Notice of Proposed Rule Making ("NPRM") adopted by the Commission in the above-referenced proceeding.[1]

I. Summary of Comments

The comments in this rulemaking proceeding have been predictably divided, with local exchange carriers (LECs) almost rabidly opposed to the FCC's interim interconnection compensation proposal, and Commercial Mobile Radio Service (CMRS) providers embracing at least the spirit, if not all the details, of the FCC's interim interconnect proposal. Within the CMRS industry, narrowband (paging) service providers are united in voicing their opposition to any interim, or permanent, "bill and keep" compensation plan, since that plan would not

[1] Notice of Proposed Rule Making, CC Docket No. 95-185, adopted December 15, 1995, released January 11, 1996 (FCC 95-505).

accurately reflect the manner in which traffic is transported between narrowband carriers and the LECs. Instead, narrowband service providers are united in their support of a plan like Celpage's, which would fairly require LECs to compensate them, on a cost basis, for terminating LEC traffic on paging networks.

To further complicate the FCC's efforts here, in the midst of this rulemaking proceeding, Congress passed the Telecommunications Act of 1996 (the "Telecom Act"); it was signed into law on February 8, 1996. Sections 251, 252, and 253 of the Act govern various issues of interconnection between LECs and telecommunications carriers, including compensation arrangements.

Not surprisingly, the respective "camps" in this proceeding have interpreted the Telecom Act in a light most favorable to their positions concerning the FCC's role in CMRS/LEC interconnection matters. Broadly stated, the LECs (at least those who commented in this proceeding) have interpreted the Telecom Act to sublimate, if not eliminate, the FCC's role in these interconnect matters, while exalting state and local regulatory authority over these matters. CMRS operators, on the other hand, interpret the Telecom Act as enhancing the FCC's authority to establish a nationwide policy, to promote just and reasonable CMRS/LEC interconnection terms and conditions.

Presumably, there is no room for such widely divergent interpretations of Congress's intent in adopting this comprehensive federal telecommunications statute. Celpage has carefully reviewed most of the comments in this proceeding, the Telecom Act, the Legislative History and Congressional Reports concerning that statute, as well as long-established legal precedents concerning FCC jurisdiction over wireline/wireless interconnect matters. That analysis inevitably leads to the conclusion that the Telecom Act does not preempt FCC jurisdiction over these interconnect matters; indeed, the FCC's statutory mandate to promote nationwide, competitive CMRS services mandates such regulations in the public interest.

What follows is a brief summary of the comments in this rulemaking proceeding, and a rebuttal to the LECs', and local utility commissions', contention that the FCC has no authority to establish uniform, nationwide CMRS/LEC interconnect compensation standards and policies.

A. Narrowband Carriers: Cost-Based Compensation Plans

The Personal Communications Industry Association ("PCIA") agreed with Celpage that paging carrier compensation should be treated differently than cellular carrier compensation, because virtually all traffic "flows from the LECs to the narrowband CMRS provider." Consequently, PCIA agrees that "bill and keep is an inappropriate interim solution for narrowband CMRS providers because it provides no compensation for the costs incurred [by paging operators] in terminating calls." PCIA Comments at p. 11. PCIA's solution is similar to Celpage's: the FCC should require LECs to pay the entire cost of the trunks connecting LEC switches to the paging terminal or central office. In addition, LECs should be required to pay narrowband service providers the reasonable costs incurred in terminating LEC calls. Id. at pp. 11-12. PCIA notes that interexchange carriers (IXCs) should also be subject to the same interconnection compensation requirements, to the extent that IXC traffic is terminated on a CMRS network. Id. at pp. 28-29.

Arch Communications Group, Inc. ("Arch") submitted similar comments in support of cost-based interconnection compensation for paging service providers. Arch's comments depict unjust and unreasonable interconnect pricing practices in 27 different states, with common themes such as monthly access charges, plus traffic charges, plus, in some cases, recurring charges for the "use" of telephone numbers, though numbers obviously do not belong to the LECs. Arch Comments at ¶¶ 9-11. To alleviate these inequities, at least on an "interim" basis, Arch suggested that all costs associated with the facilities used by the LECs (or IXCs) to originate or terminate a call to the narrowband CMRS "switching device" be "borne by the LEC rather than the NCMRS provider." Id. at ¶¶ 6, 16. In addition, since the industry lacks sufficient data to calculate the costs incurred by narrowband providers in terminating calls, Arch suggests an interim plan, as an alternative to "bill and keep", until such time as cost-based compensation arrangements can be negotiated between narrowband providers and LECs. That plan would employ the rates from a NYNEX "Feature Group 3a" (which Arch describes as similar to Type 1 interconnect) as a "surrogate" for compensating paging companies, since those rates were "derived from real world charges previously imposed on NCMRS providers for call termination." Id. at ¶¶ 21-23.

Paging Network, Inc.'s (PageNet) Comments resemble Arch's in that they suggest using LEC cost elements, on at least an interim basis, to determine fair and reasonable cost compensation to narrowband operators for terminating LEC calls. PageNet Comments at pp. 26-29. PageNet states that rate of compensation should be expressed on a charge per-call basis derived from interstate tariffed rates. PageNet offers a charge per-call formula based on the average paging call being 15 seconds. PageNet concludes that the per-call charge should be set at 80% of one minute's charge (the 80% factor reflects set-up costs and conversion of time costs). Using access charges from BellSouth's federal tariff, PageNet determines that a termination charge would be \$.00633 per call. PageNet also reserved the right to depart from this formula, if it determines that its actual costs substantially differ from this rate.

Regardless of which "interim" compensation formula the FCC adopts, the consensus here is apparent: existing LEC/narrowband "compensation" arrangements are unjust, unreasonable, and entirely unfair to paging companies. The LECs have been allowed to charge paging carriers for traffic that flows only one-way into the paging "switch," despite the fact that LEC callers already cover the vast majority of these costs. The LECs, for their part, have not paid a single dime to any paging company for the costs incurred by paging companies in terminating LEC traffic. That *status quo* is entirely unacceptable, even on an interim basis.

B. Narrowband Carriers: FCC Jurisdiction

The narrowband commenters are also unanimous in their opinion that the FCC has jurisdiction to mandate just and reasonable LEC/CMRS interconnect compensation plans in the public interest. Paging carriers note that nothing in the Telecom Act affects federal preemption of all state and local rate and entry regulations with respect to CMRS.[2] In addition, Section 251(I) of the Telecom Act confirms that the Commission retains full authority under Section 201 of the Act to regulate all interstate "services and charges".[3]

Pursuant to these statutory provisions, PCIA concludes that Congress's intent in the Telecom Act was to give the Commission broad authority to supervise and supersede state

[2] Pursuant to Section 332(c)(3), States are forbidden to regulate the entry of or rates charged by CMRS providers (amended by the 1993 Budget Act). Under Section 332, States have the authority to regulate "other terms and conditions" of CMRS services.

[3] Section 201(a) authorizes the FCC to require common carriers to, *inter alia*, "establish physical connections with other carriers." Under Section 201(b), the terms and conditions of interconnection must be "just, reasonable," and non-discriminatory. See 47 U.S.C. § 201.

regulation. Furthermore, under the FCC's authority to implement these requirements, it has authority to "define the contours" of Section 251, thereby setting guidelines for state approval of agreements. PCIA further argues that if the Commission determines that a particular form of termination compensation "is necessary to implement Section 251," then States cannot implement an inconsistent compensation scheme. Finally, PCIA supports its position by pointing out that states are prohibited under Section 332 of the Act from enacting regulations (including compensation schemes) that serve as barriers to entry. If 50 states implemented 50 different compensation plans, that would amount to a substantial barrier to entry in the CMRS marketplace.

Paging carriers have also aptly noted that most paging traffic is interstate in nature, and that the intrastate and interstate aspects of an end-to-end call to a paging unit are virtually inseparable. See, e.g., Comments of Arch and Pagenet. Consequently, even under the case authorities cited by the LECs who oppose FCC jurisdiction, the FCC would have jurisdiction over these interconnect matters. See Louisiana Public Service Commission v. FCC, 476 U.S. 355, 375 n.4 (1986) (where interstate and intrastate services technically and practically cannot be separated, the FCC may exercise its jurisdiction) (cited in PRTC's Comments).

C. Broadband CMRS: Bill & Keep Compensation.

Broadband CMRS carriers for the most part support the "bill and keep" interconnect compensation plan, that was first suggested by the Cellular Telecommunications Industry Association ("CTIA"). At least on an interim basis, that plan is supported by AirTouch Communications, Inc., Centennial Cellular Corp., New Par Communications, Cellular Communications of Puerto Rico, American Personal Communications, Omnipoint

Communications Corp., and others, in addition to CTIA.

The point of departure for the dissenting CMRS operators is not over whether LECs should compensate CMRS operators for call termination, but rather, the method for doing so. A minority of broadband commenters would apparently prefer to immediately implement some form of cost-based interconnection compensation, rather than accepting the rough justice that "bill and keep" would render. See e.g., Comments of Rural Cellular Association.

D. Broadband CMRS: FCC Jurisdiction

For essentially the same legal and practical reasons presented by narrowband CMRS commenters, the broadband operators concur that the FCC has jurisdiction over these interconnect issues, and, that it by all means should exercise that jurisdiction.

E. LECs

The LECs interpret Sections 251 and 252 of the Telecom Act as eliminating any statutory basis for the Commission's bill and keep proposal and its preemptive authority. BellSouth argued that Congress has expressly provided for LECs to negotiate voluntary interconnection agreements, and that the Act sets only broad guidelines, with very few terms and conditions for such agreements. According to the Puerto Rico Telephone Company (PRTC), the Commission may not adopt specific rules, such as bill and keep, that interfere with the parties' "ability to negotiate mutually acceptable interconnection agreements."

BellSouth argues that the states' responsibilities under the new statute include: (1) participating in interconnection negotiations at the request of a party to mediate differences, (2) reviewing negotiated interconnection agreements with incumbent LECs, and (3) conducting mandatory arbitration proceedings concerning unresolved interconnection negotiations, including applying Section 251 requirements. Therefore, BellSouth concludes that the FCC does not have the authority to impose specific interconnection compensation arrangements, or to preempt state interconnection regulations that are consistent with Section 251.

With respect to "bill and keep", BellSouth argues that such a proposal is contrary to the requirements of Sections 251 and 252. These sections emphasize voluntary negotiations, and specific terms such as bill and keep would inhibit negotiations, and be outside the scope of the FCC's authority to implement the requirements of Section 251.

II. Implications of the Telecom Act

The Act gives the FCC six months (August 8, 1996) to establish regulations to implement its interconnection requirements. If the FCC essentially shelves this on-going rulemaking proceeding, which has been suggested by most of the LECs and NARUC, the CMRS industry would be left in the unfortunate position it occupied before the FCC undertook these efforts: CMRS providers will be terminating LEC and IXC traffic without just compensation, and there will be no unified plan in place to eliminate unjust and unreasonable interconnect arrangements throughout the 50 states and the U.S. Commonwealths.

Celpage respectfully requests the FCC to resist the considerable pressures being brought to bear on it by the LECs and local regulatory authorities to terminate this rulemaking proposal. There is absolutely no chance that the CMRS industry will change its point of view on these interconnect matters in this or any other rulemaking proceeding; and, these pressing issues of unjust interconnect practices will not go away anytime soon. Indeed, if the LECs prevail, these issues will meander their way through laborious, multi-state arbitration proceedings in over 50 public utility commissions, before the CMRS industry can even hope to receive fair and reasonable compensation from the LECs. The FCC has ample authority, under both the "old" and the "new" Communications Act, to immediately rectify this blatant imbalance in LEC/CMRS interconnect compensation; this agency should continue its efforts to remedy this injustice.

III. The FCC has Jurisdiction over These Interconnect Issues.

The LECs are simply playing the same tune that they have played for decades with regard to wireless interconnect practices: whenever the FCC proposes to level the playing field between wireless and wireline carriers, the wireline carriers decry that these are "local issues" subject to state, not FCC jurisdiction. It is apparent that the LECs' analysis of the jurisdictional implications of the Telecom Act, amounts to little more than another shell under which they hope to hide their unjust and unreasonable interconnect practices. The FCC should put an end to this shell game, once and for all. The FCC has ample jurisdiction over these interconnect issues under several principles of law, none of which are undermined or superseded by the Telecom Act.

A. These Issues Concern Interstate Communications.

The FCC has jurisdiction over these interconnect issues because all of the affected parties are engaged in the provision of interstate communications. Federal Courts and this Commission have consistently emphasized that they consider the end-to-end nature of communications, rather than the individual components used, in determining whether interstate communications are concerned. See National Association of Regulatory Utility Commissioners v. FCC, 746 F.2d 1492, 1498 (D.C. Cir. 1984); see also, Teleconnect Company v. Bell Telephone of Pennsylvania, et al., DA 91-1108 (September 5, 1991). Hence, there is a presumption that interstate communications extends from the inception of a call to its completion. Puerto Rico Telephone Company v. FCC, 553 F.2d 694, 699 (1st Cir. 1977). Under these principles, since the LEC/CMRS services in question provide interstate calls, the Commission has jurisdiction.

The LECs provide interconnect services to the nationwide telephone network, subject to FCC regulation under Title II of the Act. See 47 U.S.C. § 151, et seq. CMRS operators provide mobile radio services that are interconnected with the interstate PSTN; end-to-end interstate communications are regularly transmitted over paging and cellular radio networks.

Moreover, in the case of cellular and paging companies, their wide-area radio network facilities frequently cross interstate borders. That is certainly the case with Celpage (its wide-area network encompasses all of Puerto Rico and the U.S. Virgin Islands), Arch (its wide-area services cover at least all of the Northeastern United States), and PageNet (its nationwide coverage is available in most every state).

Since CMRS radio services are interconnected with the PSTN, and interstate telephone calls are carried over these cellular and paging facilities, the Commission has jurisdiction over these interconnect matters under Title II of the Act. See Fairmount Telephone Co., Inc. v. Southern Bell Tel. & Tel. Co., 53 RR 2d 639 (Com. Car. Bur., 1983); see also, TPI Transmission Services, Inc. v. Puerto Rico Telephone Company, 66 RR2d 257, 260 (1989).

B. FCC has Jurisdiction over Interconnect Disputes.

The FCC, through a series of "Policy Statements" and "Declaratory Rulings," has regularly exercised its jurisdiction over interconnection matters to ensure that interconnection to the nationwide telephone network will be provided by the wireline telephone companies on fair and reasonable terms. See, e.g., Cellular Interconnection (Declaratory Ruling), 2 FCC Rcd. 2910

(1987); see also, Radio Common Carrier Services (Post-Divestiture BOC Practices), 59 RR 2d 1275 (1986).

The issues raised in this rulemaking proceeding are simply the unfortunate progeny of interconnection complaint proceedings that were initiated by RCC operators decades ago. In Offer of Facilities for Use by Other Common Carriers, 52 FCC 2d 727 (1975), the FCC accepted a Settlement Agreement ending an FCC investigation into the lawfulness of Bell System tariffs offering interconnection facilities for use by other common carriers. There, the FCC dealt with such interconnect issues as whether the LECs had discriminated against RCCs in the provision of interconnect services, and whether the RCCs should be provided interconnect services pursuant to tariff, rather than intercarrier contract. See Domestic Public Land Mobile Radio Service, 63 FCC 2d 87, 88 (1977).

Ultimately, that nearly decade-long Complaint and investigation proceeding resulted in the adoption of a "Memorandum of Understanding" between the telephone companies and the RCCs, which brought such benefits to the RCCs as lower central office number rates, and the implementation of the Single Number Access Plan ("SNAP"). See Memorandum of Understanding, 80 FCC 2d 352, 354 (1980).

So, here we go again. In this rulemaking proceeding, CMRS carriers such as Celpage are naturally entreating the FCC to investigate these unjust and unreasonable LEC interconnection prices and practices, thereby completing the task this agency began more than 20 years ago, to ensure that these interconnect prices and practices are just, fair and reasonable under the Act. The Commission's authority to do so couldn't be clearer. For instance, the FCC has expressly ruled that "the physical plant used in the interconnection of cellular [and RCC] carriers to landline carriers is within our plenary jurisdiction because the identical plant serves both intrastate and interstate cellular services." Cellular Interconnection, 2 FCC Rcd. 2910, 2911 (1987) (emphasis added). Since interstate calls are transmitted through cellular and paging networks, the FCC has jurisdictional authority to ensure that the terms and conditions of the LECs' interconnect services are "reasonable." Id. at 2911.

Certainly, if the costs and charges for interstate versus intrastate calling may be segregated, those interconnection rates and terms may be subject to dual FCC and local utility commission regulation. Id. at 2912. Still, the FCC has recognized that at some point the intrastate component of charges for physical interconnection may be so high as to effectively preclude interconnection. In that case, the FCC has determined that it may assert preemptive authority over the intrastate charges. Id.

The FCC has additional, independent statutory authority over these interconnect matters. The FCC has statutory authority to require that the terms and conditions of interconnection with the local telephone company's network be negotiated "in good faith." Id. at 2912. Section 201 of the Act makes it "the duty of every common carrier ... to furnish its services upon reasonable request"; these interconnect practices must be "just". Id. Furthermore, Section 202 prohibits "unreasonable discrimination" in the provision of interstate common carrier services, including interconnection services. Id.

The LECs in this rulemaking proceeding, such as PRTC, have strained to suggest that the Telecom Act preempts FCC jurisdiction over these interconnect matters, when the contrary is so apparent. Congress expressly stated in the Telecom Act that "[n]othing in this section shall be construed to limit or otherwise effect the Commission's authority under Section 201." It cannot be honestly argued, then, that the new Telecom Act has preempted or eviscerated FCC authority over interconnect matters.

C. **CMRS Operators may be Forced to file a Joint Complaint Against all LECS to Obtain Reasonable Interconnection Terms.**

The FCC has previously ruled that if a telephone company refuses a reasonable request for interconnection services, has caused unreasonable delays in providing the interconnection, or imposes unreasonable charges for the interconnection, the aggrieved party may file a Section 208 Complaint with the FCC. Id. If the LECs truly wish to press their jurisdictional argument to the hilt, the entire CMRS industry could be compelled to pursue the alternative tactic of filing a joint, formal Complaint under the Telecom Act against all LECs, seeking damages, rebates, and rate adjustments for decades' worth of unjust and unreasonable interconnect practices. See 47 U.S.C. §§ 206, 207, 208 & 209. Celpage, for its part, would surely benefit from that action. The FCC's alternative, to attempt to amicably resolve these matters *via* this rulemaking proceeding, would seem to be the sounder and less expensive alternative for the LECs.

D. **The FCC has Jurisdiction under Title III.**

CMRS operators have raised in this rulemaking proceeding legitimate, substantiated allegations of improper practices by LECs; many of these LECs are licensed by the FCC, either directly or indirectly, pursuant to Title III of the Communications Act. Certainly in Celpage's case, its local carrier, the PRTC, competes against Celpage and other local CMRSs for both paging and cellular customers. The FCC has jurisdiction to ensure that the LECs do not abuse their monopoly exchange carrier status to obtain unfair advantages in competitive services, such as paging and cellular.

In this regard, the Commission has stated that it "will retain at all times the power of the licensing function ... [and] inquire into any practices which ... appear to be unlawful, anticompetitive, or inimical to the public interest ...." Allocation of frequencies in 150.8-162 Mc/s Band, 14 FCC 2d 269, 271 (1968), aff'd sub nom., Radio Relay Corp. v. FCC, 409 F.2d 322 (2nd Cir. 1969) (the "Guardband Decision"). The FCC surely may investigate unfair competition allegations under its Title III licensing authority, since its "obligation to protect the public interest enables [the FCC] to assess whether a licensee has engaged in anticompetitive conduct." Memphis Radio Telephone Co., Inc. v. Mahaffey Message Relay, 49 FCC 2d 258, 259 (1974); see also, National Broadcasting Co. v. FCC, 319 U.S. 190 (1943).

The anticompetitive concerns raised by current LEC interconnect practices are bound to be exacerbated as CMRS licensees compete directly against the LECs for traditional local exchange customers. The rapid development of PCS, enhanced two-way paging, and wireless PBX services are evidence of this heightened competitive tension between CMRSs and LECs. Presumably, with the blessing of the new Telecom Act, we will see more LECs obtaining licenses for these wireless services, and competing directly against CMRS operators as both a wireless and wireline carrier. It is thus imperative that the FCC exercise its authority to ensure that the LECs do not abuse their power over interconnect, to gain an unfair competitive advantage over CMRS operators.

E. The FCC has Jurisdiction to Review Contracts and to Strike Provisions that are Inimical to the Public Interest Under the Communications Act.

The FCC also has authority to disapprove anticompetitive intercarrier or carrier to customer contracts. See TRAC Communications v. Detroit Cellular Telephone Company, 5 FCC Rcd. 4647 (1989) (Federal District Court referred contract issues to the FCC under the doctrine of primary jurisdiction; the FCC ruled that contract provisions restricting resale of services were unlawful under Titles II and III of the Communications Act).

There is unanimity among the paging and cellular operators who submitted comments in this proceeding that current LEC/CMRS intercarrier contracts are anticompetitive, unjust, and unlawful. The FCC unquestionably has jurisdiction to review these contract terms, as it did in the 1970s when it reviewed RCC interconnect arrangements with the telephone companies, to determine whether these contractual arrangements are lawful under the Act. See Offer of Facilities for Use by Other Common Carriers, 52 FCC 2d 727; Domestic Public Land Mobile Radio Service, 63 FCC 2d 87,88.

By scrutinizing these LEC/CMRS interconnect agreements or tariffs in this rulemaking proceeding, the FCC "in no sense imping[es] on the regulatory ambit of a state commission ..."; rather, it is merely fulfilling its statutory duty to ensure that the LECs are not engaged in "unfair or illegal competitive practices ...." See, e.g., United Telephone Co. of Ohio, 26 FCC 2d 417, 419 (1970).

F. Substantial Federal Issues.

Finally, if all the foregoing grounds for FCC jurisdiction do not satisfy the LECs, jurisdiction over these interconnect matters is properly with this Commission under established precedents due to the substantial federal issues at stake in this proceeding. Cf. TPI Transmission Services, Inc. v. Puerto Rico Telephone Company, 66 RR 2d 257, 259 (Com.Car.Bur., 1989). The CMRS comments in this proceeding bespeak of the competitive harm, and the costs to the public, that have been wrought by this nationwide, crazy-quilt of unfair interconnect practices. These interconnect agreements and tariffs , while different in most respects in every state, have one common flaw: they compensate only the LECs, at the expense of the CMRS operators. It is time to put an end to this national injustice.

It is obvious that the failure to establish fair, nationwide LEC/CMRS interconnect practices, particularly in light of the FCC's goal of promoting the rapid development of an ever increasing number of interstate wireless services (such as PCS), "will substantially [adversely] affect the conduct or development of interstate communications." See Diamond International Corp. v. FCC, 627 F.2d 489, 493 (D.C. Cir. 1980). Therefore, there is a substantial federal interest in establishing fair and reasonable, nationwide interconnect compensation regulations, to promote the development of interstate wireless services. To the extent that the LECs' practices have interfered with these statutory goals and rights, and since state regulatory involvement in these matters will surely delay achievement of these ends, the FCC most certainly has jurisdiction over these matters. See, e.g., Radiotelephone Communicators of Puerto Rico, Inc. v. Puerto Rico Communications Authority, 64 RR2d 1404, 1406.

CONCLUSION

For all the foregoing reasons, Celpage respectfully submits that the Commission has jurisdiction to adopt mandatory interconnection compensation policies applicable to all CMRS providers, including a cost-based compensation mechanism for narrowband providers, with public disclosure of interconnection arrangements. Celpage requests that the FCC order the LECs to immediately compensate CMRS operators on an interim basis, as suggested by the commenters, and take actions to institute cost-based compensation on a permanent basis. Those agency decisions could then be submitted to the Congress, in full compliance with the new statutory requirements under the Telecom Act.

Respectfully submitted,

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I, Regina Wingfield, a secretary in the law firm of Joyce & Jacobs, do hereby certify that on this 25th day of March, 1996, copies of the foregoing Reply Comments of Celpage, Inc. were mailed, postage prepaid, to the following:

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